

**Testimony of:**

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**Before the U.S. House of Representatives Committee on Homeland Security Hearing:  
“The Direction and Viability of the Federal Protective Service”**

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First I would like to thank you for the opportunity to be present in my capacity as President of AFGE Local 918, the National Federal Protective Service Union. I am the delegated representative of approximately 1000 FPS employees to include federal law enforcement officers and support staff.

FPS is responsible for policing, securing and ensuring a safe environment for Federal Agencies to serve the public and protect 1.1 million dedicated civil servants at over 8800 total properties in 2100 American communities. These buildings often house sensitive, high-level government offices and federal court buildings, numerous Agency Headquarters such as FBI, EPA and USDA and public access facilities such as Social Security and Immigration offices.

Mr. Chairman, one of the stated matters of this Committee’s interest was a reference to bribery – or at least one instance of alleged bribery - at the Federal Protective Service.

One allegation of bribery, public corruption or compromise of public office is ten too many. The Florida case specifically cited by this Committee casts aspersions on a person, a work unit, a region and an entire organization. I represent the workers of that organization and I would like to state – on their behalf – that the men and women of the Federal Protective Service are amongst the most conscientious, honest and capable civil servants in this government. I wish to offer some brief insight into the Florida case that does not come through - in any way - in the media coverage or the Justice Department’s press release concerning the matter.

The facts - as reported in those media releases – tend to conflict with, or do not completely embrace, our understanding of the actual events of the case. More importantly, the portrayal of the subject Inspector is a disproportionately dark characterization of an officer that we know to be a noble man who made a serious ethical mistake in judgment that was completely out of his historically demonstrated character. We cannot color his act as anything less than wrongful, but we can proclaim it as a serious, yet isolated, conduct anomaly within an otherwise honorable and dedicated career. We cannot go into any details to evidence our position, as the man’s criminal sentencing lies yet ahead.

My AFGE Council FPS associate has just spoken with this employee. And while that former employee cannot speak to you or his FPS peers or to the American taxpayer, he wanted you all to know how deeply sorrowful he is for letting us all – and himself – down. He wanted to express his sorrow and regret for making such a mistake. He prays that those who know him will spread the word that he is not the evil, greedy villain described in the written accounts. He asks for forgiveness and begs to be remembered not solely by this one series of errant actions, but – in balance – also by the sum of his career contributions and service to the public good and safety. We are all entitled to one mistake. And for his he has already paid a disproportionately high price.

If this Committee knows nothing more about this man than a press release and a private civil service newsletter article, then, in all respect, you do not know this man. And while one apple can figuratively taint an entire barrel, this incident - in reality - actually portrays a single apple bruised by its mortal frailties, not one that is decayed beyond redemption.

The Committee chose to include bribery at FPS as one of its agenda items. I can say that in my 21 years of service here, that I have not seen, nor am I aware of, any instances or practices of bribery. While your concern over this subject is noted and appreciated, from the perspective of the union, historical incidence of bribery at FPS is virtually non-existent.

To move on to the situation that I was called here today for - Mr. Chairman, I am testifying before you shortly after the 12<sup>th</sup> anniversary of the destruction of the Alfred P. Murrah Federal Building in Oklahoma City. I find it disturbing that I am forced to defend the concept that Federal Police Officers on patrol and Special Agents gathering intelligence are the most viable frontline protection for Federal facilities in these days of international terrorism.

After the 1995 terrorist bombing, GSA and Congress determined that FPS required 1480 field personnel, an increase from approximately 970 at the time of the attack. This year, DHS reduced FPS to below 1200 then proposed 950 for 2008. The 2008 budget proposal increases the risk of criminal and terrorist attack on Federal employees, facilities and members of the public by reducing FPS to less field personnel than at the time of the Oklahoma City Bombing.

I know that I need not remind anyone in this room, nor should I have to remind officials at the Department of Homeland Security that the three most infamous terrorist attacks on U.S. soil in our history occurred either at federal buildings or in buildings which housed federal agencies: the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995 and the World Trade Center on February 26, 1993 and again on September 11, 2001. Perhaps it is because of my long service as an FPS Officer, but it is extremely difficult for me to imagine a more likely symbolic/strategic target for terrorists than a building housing U.S. government operations and officials.

I've been an employee of FPS since July 1986. From the moment I entered service, I noticed the somewhat dysfunctional nature of this Agency. I promoted from Police Officer to Corporal and eventually to Sergeant in Management ranks in 1993. In 1994, FPS employees were preparing for a dismantlement of the Agency and were given several employee "options" - even as we were providing round the clock protection at the federal trials of the 1993 WTC bombing. On April 19, 1995, while on normal proactive patrol in Kansas City, Missouri, I heard the news that shocked the nation. A terrorist bombing in the heartland destroyed the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma - killing 168 federal employees, visitors and children. At that point in time, Kansas City had approximately 20 full time FPS police officers. Reports surfaced that Tim McVeigh and Terry Nichols had been in Kansas City and perhaps "casing" our Federal facilities. There was one Federal Protective Service armed physical security specialist stationed in Oklahoma City.

That day convinced me that changes were needed in the way that the Federal Protective Service operated. Immediately, the Federal Protective Service was "off the chopping block" due to Congressional intervention. The June 1995 Department of Justice Vulnerability Assessment of Federal Facilities was published and the incentive - illuminated by Congressional oversight - was high to ensure measures were being taken to protect the federal infrastructure, the employees who worked there and the public that visited.

Crucial hiring ensued in 1996 and 1997 bringing the numbers of Police Officers to Agency mandated 730 with a focus on hiring experienced police officers. The intent was to get away from the "security

guard” image. Suffice to say that the 1000 police officers mandated by Congress by Public Law 100-440 was ignored. Through the late 90’s, FPS provided law enforcement and security functions at the trials of the Oklahoma City bombers and continued at ongoing terrorist trials in New York City. Nevertheless the FPS image could never overcome the years of damage caused by neglect of our force.

Then came the horrible attacks on 9/11. Members of New York FPS participated in the immediate emergency response to the attack. Their dedication to duty and country resulted in several FPS officers being injured to include one officer that spent months in rehabilitation before being able to come back to the job. On September 21, 2001, FPS Inspector Ron Sheffield was murdered at the McNamara Federal Building in Detroit, Michigan during a response to a deranged individual – as a direct result of the heightened security alert in the days after 9/11.

Under the leadership of FPS Commissioner Wendell Shingler, members of FPS were proud as we moved over to the newly formed Department of Homeland Security in March 2003, although we were confused by our merger into ICE, along with certain elements of U.S. Customs Service and U.S. Immigration and Naturalization Service. Even with the neglect and animosity from DHS/ICE, the ensuing years showed that FPS was a viable force – with commended participation in numerous incidents of national significance – before “incidents of national significance” became a phrase in the National Incident Command System. Tactics, training and equipment were upgraded to the level necessary for response to a terrorist threat at any of the 8800 federal facilities in our jurisdiction. 100 Hazardous Materials Technicians were trained. 60 K9 Explosive Detections teams were trained and formed. Emergency Response Teams were formed around the nation. 16 Emergency Medical Technicians were trained and equipped. FPS participated in events ranging from protection of federal facilities during the Elian Gonzales incident, the 2002 Salt Lake City Winter Olympics to the 2000 and 2004 political conventions, Savannah G8 Summit, World Bank and Seattle World Trade Organization meetings and Presidential Inaugurations.

In August 2005, FPS elements – to include 200 law enforcement officers and associated equipment were pre –positioned and subsequently moved into the Gulf Coast in the immediate aftermath of Hurricane Katrina. FPS Officers were commissioned as Louisiana State Patrol and provided police services to the stricken New Orleans community alongside New Orleans Police Department which had few operating emergency vehicles. FPS was at the Superdome. FPS was at the Convention Center. FPS assisted in the inspection and securing of numerous chemical plants in Southern Louisiana. FPS participated in the rescues. FPS was on the teams that were recovering bodies and controlling traffic in the immediate aftermath until more federal help arrived. FPS was thanked publicly by DHS Commissioner Michael Chertoff. Ironically, FPS has been challenged by ICE as to its authority to respond to such incidents and we have once again floundered. Lost in the huge bureaucracy, our numbers have shrunk from the approximate 1530 employees on board as of 3/1/03 – when we entered into DHS/ICE – to 1172 today.

Despite the obvious need to both invest in and re-build this critical homeland security agency, DHS and specifically, ICE are proposing to completely eliminate most direct law enforcement services by FPS. Agency officials and documentation has confirmed to us that the proposed cuts in personnel and service are due to be completed by June 30, 2007. 249 Federal Law Enforcement positions directly responsible for law enforcement patrol and response to federal properties are to be cut. 18 Police Officer positions would remain across the nation in 18 major metropolitan areas. 42 FPS Special Agent positions responsible for prosecution of Federal crimes, intelligence gathering and dissemination will be eliminated.

The Administration’s budget submission offers this description of its plan for FPS: “In 2008 the Federal Protective Service will set security standards and enforce the compliance of those standards to protect federal facilities”.

But those few words in the budget submission belie a proposal that is both dangerous and foolhardy in the post 9/11 world in which we live. To quote directly from a portion of a PowerPoint presentation (Attachment 1, three pages) prepared by U.S. ICE for FPS Regional Directors, dated December 20, 2006 and titled: Briefing on the Federal Protective Service, Transition to FY '08 budget, on a page titled "Risk Assumed by [FPS] Transformation"; where the agency describes the impact of the FPS proposal:

1. No proactive patrol to deter attack planning; and detect/deter suspicious and criminal activity.
2. No response to calls for police service to protect Federal employees and visitors or
3. investigate crimes at Federal facilities in areas where FPS will no longer have a presence;
4. No FPS presence in approximately 50 current cities;
5. Participation in the FBI Joint Terrorism Task Forces reduced to 12 Special Agents from 24;
6. Special Agents available to investigate serious crime reduced to 14 from 58;
7. No night or weekend police response or service anywhere
8. Largest reductions in N.Y. and Washington D.C. due to proactive activity elimination;"

And the list goes on. The Administration proposal claims to be proactive by increasing the necessary performance monitoring of the 15,000 contract security guards FPS uses to help secure facilities. The proposal also begins to allocate resources for security standards compliance monitoring, which should have started in 1995 not 2008. This is their so-called a proactive approach.

The agency has since issued statements to employees and the Media denying the relevance of the above cited document, describing a rosy plan of reorganization or "right-sizing" which leaves out the above particular highlights. Nonetheless, these are the facts as detailed by the agency itself and they are shocking. The proposed 950 employee FPS is driven by money – not a risk analysis by law enforcement or security professionals.

A proper workload allocation study was completed in 2006 by a team of FPS professionals with over 225 collective years of security and law enforcement experience and in depth knowledge of effective risk mitigation strategies. The study considered threats, varying security requirements of facilities based on their security level and location – ultimately determining that a substantially higher requirement was necessary to protect our federal facilities (Attachment #2, 33 pages).

On April 25, 2007, I received email documentation of a meeting in FPS Region 3 Philadelphia, between bargaining unit employees and Agency management personnel reveals that the plan is moving forward. This despite the recent GAO Audit requests by the House and Senate, numerous Congressional Inquiries and this Committee's 3/26/07 Amendment to the DHS Authorization Bill - that would require DHS to await GAO findings before downsizing.

The Federal Protective Service is being starved of resources by DHS/ICE. The Administration has said more times than I can count, that we are doing all we can to protect the nation against terrorists and terrorism. I doubt anyone could honestly call this FPS plan "doing all we can". In fact, it is an abrogation of a critical responsibility to protect this nation.

Interestingly, Mr. Chertoff has been silent on the subject of this proposed reorganization of FPS that will result in the elimination of 249 police officer positions nationwide in addition to the approximate 350 positions that have already been lost. In effect this latest reorganization attempt will be the virtual dismantlement of FPS as a viable Federal response force. The proposed reduction to 950 – announced to the employees on 2/5/07 is a re-hash of old plans that have never fully panned out over the years since 1986. The plan is still deemed as "pre -decisional" by the Agency in an effort to avoid discussions with the Union.

Mr. Chairman, given the fact that ICE is moving aggressively to implement its ill-considered plan and FPS is losing experienced law enforcement officers on an almost daily basis, Congress needs to intervene and stop this effort, certainly until the GAO report on the agency is completed. In our view, the only way to accomplish this is to ask the Appropriations Committees to initiate a reprogramming request to DHS. We are only talking about money sufficient to take FPS through the end of the year, but enough to stop the attrition. Reprogramming of funds for FY'07 to return to the 1250 FTE level (which seems to be the consensus to stabilize): 80 Police Officers at \$121,000 per year prorated at 6 months = \$4,840,000.

We would also like to recommend changes for FY'08. The recommendations were developed from Agency proposed cuts and a "stabilization" effort at 1250 FTE: 259 Police Officers at \$121,000 per year = \$31,339,000; and 42 Special Agents at \$150,000 per year = \$6,300,000.

A potential funding source for each of the above recommendations would be the "shared services fee" that ICE currently charges FPS approximately \$52,000,000 per year – about \$48,500 per employee at this point. These shared services include GSA rent and IT charges of approximately \$24,000,000 that cannot be avoided.

However, the remainder of \$28,000,000 is a "tax" imposed by ICE on FPS for funding of unfair and ineffective Human Capital operations – to include Employee and Labor Relations and Office of Professional Responsibility. These offices are directly responsible for the fact that DHS ranks last in employee morale.

I also urge the Committee to take steps to fix the three immediate core problems of the Federal Protective Service that have resulted in this fiscal and organizational mess:

- a.) The method by which we are funded - the current "fee for service", "accounts receivable" funding mechanism and security charges through GSA rent is an inefficient holdover from our days within GSA. Our recommendation would be implementation of direct appropriations or at least a funding mechanism whereby "security charges" from federal agency "customers" is budgeted and collected by Office of Management and Budget. Dissemination of funds would be "transparent" to the "customer" Agencies.
- b.) Our placement within Immigration and Customs Enforcement. The placement of FPS within ICE was a huge mistake from the inception. A small Agency like FPS had no chance with the immediate turf battles that developed between Immigration and Customs personnel. Our recommendation would be our inception as a "stand-alone" federal Agency within DHS.
- c.) Ensure that GAO conducts an extensive review of the absolutely burgeoning costs of security guard contracts around the nation. Implementation of Federal Civil Service GS-085 security guards at Security Level 3 and 4 facilities would provide several benefits: security guards with federal authority to intervene. At present, authority of contract security guards is dependent on local and State laws and the contract. Contracts can also be written that limit authority of their employees to physically detain suspects.

Equally important would be two more proposals that would ensure the long term viability of FPS as the premier law enforcement/security Agency responsible for Federal properties:

- a.) Removal of the power of the Department to "delegate" to "customer" Agencies the authority to "opt out" of payment for law enforcement and security services provided by FPS - as is currently being pursued by the Administrative Office of the Courts and U. S. Marshals Service.

As this scenario plays out, decreases in funding result in fewer police officers and FPS is systematically stripped of its ability to respond effectively and efficiently to its “customers” – resulting in more delegations. Federal Agencies are not receiving services that they are paying .37 per square foot for. A proposed increase to .59 per square foot is pending – and service is being decreased as we speak.

b.) Codification of the Interagency Security Committee Standards that is used by FPS to “recommend” physical security countermeasures. At present, FPS can only make “recommendations” which have no binding authority on Federal Agencies to implement security countermeasures.

I assure you that when these problems are fixed, FPS can institute true reform, and become the Agency within Department of Homeland Security absolutely responsible for protection of Federal facilities.

Mr. Chairman, members of this Committee, I urge you to reject the ill-conceived initiative of downsizing – proposed by the Department because of financial mismanagement and a faulty funding mechanism that the Department has consistently failed to remedy. Before we decide to eliminate this core FPS responsibility, let us pause and take a close look at whether this is the direction we really want to go. Do we really want to reduce this agency to an essentially regulatory body with no real law enforcement responsibilities? Do we really want to rely on a few hundred inspectors to oversee and insure compliance with security guidelines for a vast work force of 15,000 private security guards?

Any support that you, Mr. Chairman, and this Committee can provide would be greatly appreciated -- not just by the law enforcement officers of FPS but by the thousands of federal employees, the visitors and the millions of Americans worried about where the next terrorist attack might take place.

Thank you for your time.